

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

IN THE MATTER OF:

H St. Lessee CMPS, LLC t/a The
Westin Grand Washington, DC Show Cause
2350 M Street, NW Hearing
Retailer CH - ANC-2A (Status)
License No. 75025
Case #14-AUD-00051
(Failed to File Quarterly
Statements 4th Quarter 2013)
Case #14-AUD-00063
(Failed to File Quarterly
Statements 1st Quarter 2014)

December 3, 2014

The Alcoholic Beverage Control Board met
in the Alcoholic Beverage Control Hearing Room, Reeves
Building, 2000 14th Street, N.W., Suite 400S,
Washington, D.C. 20009, Chairperson Ruthanne Miller,
presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

ALSO PRESENT:

LOUISE PHILLIPS, OAG

P-R-O-C-E-E-D-I-N-G-S

(9:40 a.m.)

CHAIRPERSON MILLER: Good morning, ladies and gentlemen. I would like to welcome you to the regularly scheduled meeting of the District of Columbia's Alcoholic Beverage Control Board. Today is December 3, 2014.

My name is Ruthanne Miller. I'm the Chairperson. To my far right is Mr. Donald Brooks. Next to Mr. Brooks is Mr. Nick Alberti and next to Mr. Alberti is Mr. Hector Rodriguez. To my left is Mr. Mike Silverstein and next to Mr. Silverstein is Mr. James Short.

We have six Members in attendance for the conduct of business this morning with three constituting a quorum.

Copies of today's hearing calendar and agenda are available at the receptionist desk. Please be aware that these proceedings are being recorded by a court reporter. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room.

1 If you have any electronic devices,
2 pagers, cell phones or such, please, make certain they
3 are turned off to avoid any interruption of the
4 proceedings.

5 When I call your case, please, come
6 forward and take a seat at the table in front. You
7 will notice there is a piece of paper on each table
8 for you to sign-in. This is to ensure the correct
9 spelling of your name for the record.

10 The Open Meetings Act requires that the
11 public hearing on each case be open to the public.
12 The Board may, consistent with Section 405(b) of the
13 Open Meetings Act, enter a closed meeting during or
14 after the public hearing on a case to consult with an
15 attorney to obtain legal advice, discuss settlement
16 agreements or deliberate upon a decision in an
17 adjudication proceeding.

18 So that concludes my introductory remarks.
19 I just think it might be appropriate if we just take
20 a quick moment of silence in memory and honor of
21 Marion Barry before we start with our morning
22 calendar.

1 (Moment of silence.)

2 CHAIRPERSON MILLER: Okay. For all the
3 good work he did for the city.

4 Let's now move into the morning calendar.
5 And the first two cases on the calendar deal with The
6 Westin. The first case is Case No. 14-AUD-00051. The
7 Westin is located at 2350 M Street, N.W., License No.
8 75025, in ANC-2A.

9 Good morning.

10 MS. PHILLIPS: Good morning. Louise
11 Phillips, Assistant Attorney General for the District
12 of Columbia.

13 COURT REPORTER: Would you turn your
14 microphone on?

15 MS. PHILLIPS: Certainly. Repeat. Louise
16 Phillips, Assistant Attorney General for the District
17 of Columbia. Good morning.

18 MR. TINTAYA: Good morning. David
19 Tintaya, Director of Finance, for The Westin,
20 Georgetown.

21 CHAIRPERSON MILLER: You are the Director?

22 MR. TINTAYA: David Tintaya, Westin,

1 Georgetown, Director of Finance.

2 CHAIRPERSON MILLER: Director of Finance.

3 Okay. And are you authorized to represent The Westin

4 --

5 MR. TINTAYA: Yes, I am the agent on
6 behalf of the owner.

7 CHAIRPERSON MILLER: -- in this case?

8 MR. TINTAYA: Yes, I am an agent on behalf
9 of the owner.

10 CHAIRPERSON MILLER: You're an agent?

11 MR. TINTAYA: For this, yes.

12 CHAIRPERSON MILLER: Okay. Is that
13 recorded with us by any chance? Is that recorded with
14 this Agency?

15 MR. TINTAYA: Yes, I have. I have a
16 letter.

17 CHAIRPERSON MILLER: You do? Is it filed
18 with the Agency?

19 MR. TINTAYA: It's -- I'm waiving the --
20 waiving the pleading.

21 CHAIRPERSON MILLER: Okay. I'll ask you
22 about that.

1 MR. TINTAYA: Yes.

2 CHAIRPERSON MILLER: But I just wanted to
3 ask you about your authority to represent the agency.

4 MR. TINTAYA: Yes, I am.

5 CHAIRPERSON MILLER: You are an agent for
6 the company?

7 MR. TINTAYA: Yes, I am an agent for the
8 company.

9 CHAIRPERSON MILLER: Did you file anything
10 with the District?

11 MR. TINTAYA: Yes, I do file the ABRA
12 reports on a quarterly basis.

13 CHAIRPERSON MILLER: Oh, you do that?

14 MR. TINTAYA: Yes, I did.

15 CHAIRPERSON MILLER: Okay. And is there
16 anything else that identifies you as an agent?

17 MR. TINTAYA: I also file the -- I assist
18 renewals. I also do the renewals and I also take care
19 of that information for the-- on behalf of the owners.

20 CHAIRPERSON MILLER: Okay. Well, let me
21 back up then.

22 First of all, did you get notice of this?

1 You got notice of this hearing?

2 MR. TINTAYA: Yes, I did.

3 CHAIRPERSON MILLER: You read it and
4 understood it?

5 MR. TINTAYA: Sorry?

6 CHAIRPERSON MILLER: Did you read it and
7 understand it?

8 MR. TINTAYA: Yes, I did.

9 CHAIRPERSON MILLER: Okay. And so there
10 is no issue with respect to your notice of this
11 hearing.

12 MR. TINTAYA: I understand notice, yes,
13 fully.

14 CHAIRPERSON MILLER: Okay.

15 MR. TINTAYA: Fully understand the
16 responsibility.

17 CHAIRPERSON MILLER: So I just want to
18 make sure that we have something on file though that
19 says you are authorized to represent The Westin here
20 in these proceedings.

21 MR. TINTAYA: Absolutely.

22 CHAIRPERSON MILLER: What do we have? Do

1 we have that?

2 MR. TINTAYA: My email information is
3 listed on the communications, that's my direct line.

4 CHAIRPERSON MILLER: Okay. I understand
5 that.

6 MR. TINTAYA: I don't know what else do
7 you require?

8 CHAIRPERSON MILLER: Well, okay. Are
9 there any preliminary matters in this case?

10 MS. PHILLIPS: Yes, there are.

11 CHAIRPERSON MILLER: Okay. So--

12 MEMBER ALBERTI: Ms. Miller, may I just
13 suggest that the gentleman file a letter from the
14 corporation naming him as representative? And then
15 file that with us? He can do that later today. I
16 mean, we have done that before.

17 I mean, it would be just a simple matter
18 of coming to court later today and naming you,
19 designating you to represent them in this matter and
20 in all licensee matters. And we could accept that
21 later today. And that would solve this whole problem.

22 MS. PHILLIPS: Do we not have one on file,

1 in the regular file? I mean, I don't know.

2 CHAIRPERSON MILLER: I don't know.

3 MS. PHILLIPS: They don't send that to me.

4 MEMBER ALBERTI: He said we don't. He is
5 saying we don't, so I don't know.

6 CHAIRPERSON MILLER: I don't know. Our
7 Legal Counsel has stepped out of the room, so, okay,
8 we will hear your preliminary matter, but we just want
9 to make sure you are authorized to --

10 MR. TINTAYA: Absolutely.

11 CHAIRPERSON MILLER: -- enter into any
12 kind of an agreement, if there is one. So is there a
13 --

14 MS. PHILLIPS: There is indeed, Madam
15 Chair.

16 CHAIRPERSON MILLER: Okay.

17 MS. PHILLIPS: And for both cases, too.

18 CHAIRPERSON MILLER: Okay.

19 MS. PHILLIPS: So it would really be
20 complicated if we can't go forward.

21 CHAIRPERSON MILLER: Okay.

22 MS. PHILLIPS: Up until two seconds ago,

1 I had the piece of paper. Anyway, I believe it is
2 \$2,000.

3 CHAIRPERSON MILLER: Yes.

4 MS. PHILLIPS: Pay the fine, no days, to
5 pay within 30 days.

6 CHAIRPERSON MILLER: Okay. So we are
7 talking right now about 14-AUD-00051.

8 MR. TINTAYA: Yes.

9 CHAIRPERSON MILLER: Okay.

10 MS. PHILLIPS: Yes, we are.

11 CHAIRPERSON MILLER: And the Government
12 has represented that there is an Offer in Compromise
13 of \$2,000 to be paid within 30 days.

14 MR. TINTAYA: 30 days, right.

15 CHAIRPERSON MILLER: And if it isn't paid
16 within 30 days, is it part of the Offer in Compromise
17 that the license would be suspended or is that not
18 part of this?

19 MS. PHILLIPS: That's not part of it that
20 I read here.

21 CHAIRPERSON MILLER: Okay.

22 MS. PHILLIPS: It's just that the 30 days,

1 I understand, is statutory now. What I was led to
2 believe is that you had to pay within 30 days or your
3 license would be suspended.

4 CHAIRPERSON MILLER: I'm not aware that
5 that is in the statute.

6 MS. PHILLIPS: Okay.

7 CHAIRPERSON MILLER: But that has been the
8 practice in many of the OICs.

9 MS. PHILLIPS: That is not part of this
10 OIC.

11 CHAIRPERSON MILLER: Okay. Okay.

12 MS. PHILLIPS: He has assured me that he
13 will pay within -- that the company will pay within 30
14 days.

15 CHAIRPERSON MILLER: Okay.

16 MR. TINTAYA: Yes, we will take care of
17 that.

18 CHAIRPERSON MILLER: So I want to ask if
19 you are agreeable to this Offer in Compromise that has
20 been represented for you to pay a fine of \$2,000 on
21 behalf of -- for the company within 30 days?

22 MR. TINTAYA: Yes.

1 CHAIRPERSON MILLER: Okay. Any questions?
2 Okay. Before we vote on this, I would pick up on what
3 Mr. Alberti said.

4 We can check the file. If there is no
5 letter in the file that specifically authorizes you to
6 represent the company in this type of proceeding and
7 enter into an agreement like this, we would ask that
8 you submit that later today.

9 MR. TINTAYA: I will.

10 CHAIRPERSON MILLER: If you could email it
11 in or fax it in or however.

12 MR. TINTAYA: It will be no problem. Yes.

13 CHAIRPERSON MILLER: Okay.

14 MR. TINTAYA: I can take care of that.

15 CHAIRPERSON MILLER: Okay. All right.
16 Then if there are no questions, I would move that we
17 approve this Offer in Compromise of \$2,000 to be paid
18 within 30 days. Is there a second?

19 MEMBER SILVERSTEIN: Second.

20 CHAIRPERSON MILLER: Mr. Silverstein has
21 seconded the motion.

22 All those in favor say aye.

1 ALL: Aye.

2 CHAIRPERSON MILLER: All those opposed?

3 All those abstaining? The motion passes 6-0-0.

4 Okay. Let's -- but I do want to ask --
5 I'm sorry, I meant to ask this before, but it's okay.

6 Are you current with the filing of the
7 quarterly statements now?

8 MR. TINTAYA: Yes.

9 CHAIRPERSON MILLER: Okay.

10 MR. TINTAYA: We are current, yes.

11 CHAIRPERSON MILLER: They are up. Okay,
12 good.

13 MEMBER RODRIGUEZ: The Westin Grand.

14 CHAIRPERSON MILLER: Yes. Okay. Thank
15 you.

16 The second case is 14-AUD-00063. I'm
17 going to ask you the same question again.

18 Did you receive notice of this hearing
19 with respect to that case?

20 MR. TINTAYA: Yes, I did.

21 CHAIRPERSON MILLER: And did you read it
22 and understand it?

1 MR. TINTAYA: Yes, I did.

2 CHAIRPERSON MILLER: Okay. And so you
3 don't have any notice issues with respect to that
4 case?

5 MR. TINTAYA: No, I don't have issues, no.

6 CHAIRPERSON MILLER: All right. Is there
7 a preliminary issue on this case?

8 MS. PHILLIPS: Yes, there is, Madam Chair.

9 CHAIRPERSON MILLER: Okay.

10 MS. PHILLIPS: I understand that-- I don't
11 know whether I need to verbally or orally amend this
12 notice, because the date was incorrect. It should
13 have been March 31, 2014. And I understood that that
14 was either done by Ms. Zaniel or that I would do it
15 orally.

16 And the Offer in Compromise --

17 CHAIRPERSON MILLER: Can I just -- so
18 there is a mistake on the Show Cause Notice?

19 MS. PHILLIPS: There is a mistake on the
20 --

21 CHAIRPERSON MILLER: On where?

22 MS. PHILLIPS: -- date.

1 CHAIRPERSON MILLER: On what?

2 MS. PHILLIPS: On the date.

3 CHAIRPERSON MILLER: On the date.

4 MS. PHILLIPS: Of the quarterly statement
5 due. Instead of March 31, 2013, it was 2014.

6 CHAIRPERSON MILLER: I see.

7 MS. PHILLIPS: That's my understanding.

8 CHAIRPERSON MILLER: Okay. Okay. Thank
9 you.

10 MS. PHILLIPS: And I just have a little
11 note here that there is an amended notice, but it is
12 only done in ink, so I didn't know whether an official
13 one was filed. So I just thought I would do it for
14 the record.

15 CHAIRPERSON MILLER: That's good.

16 MS. PHILLIPS: Ms. Zaniel already entered
17 into an Offer in Compromise.

18 CHAIRPERSON MILLER: Good.

19 MS. PHILLIPS: So everything is all --

20 CHAIRPERSON MILLER: Is there any
21 objection to that?

22 MR. TINTAYA: No.

1 CHAIRPERSON MILLER: Okay.

2 MR. TINTAYA: I understand that. Thank
3 you.

4 CHAIRPERSON MILLER: Okay. Great.

5 MS. PHILLIPS: I signed the amended notice
6 on November 19th.

7 CHAIRPERSON MILLER: Oh, it was way back
8 then?

9 MS. PHILLIPS: Yes. It's in the record.

10 CHAIRPERSON MILLER: Oh, okay.

11 MS. PHILLIPS: And it was served.

12 CHAIRPERSON MILLER: Legal Counsel is
13 showing me that I already did sign an amended notice
14 with the correct date that is in the record.

15 MS. PHILLIPS: Good.

16 CHAIRPERSON MILLER: So we are all set on
17 that.

18 MS. PHILLIPS: Excellent.

19 CHAIRPERSON MILLER: Okay. Thank you.

20 MS. PHILLIPS: Thank you, Ms. Jenkins.

21 CHAIRPERSON MILLER: Okay.

22 MS. PHILLIPS: The Offer in Compromise in

1 this case is \$2,000 to be paid within 30 days.

2 CHAIRPERSON MILLER: Okay. Let me ask
3 you, do you agree to an Offer in Compromise for this
4 case of \$2,000 to be paid within 30 days?

5 MR. TINTAYA: Yes.

6 CHAIRPERSON MILLER: And do you understand
7 you waive your right to a hearing--

8 MR. TINTAYA: Yes.

9 CHAIRPERSON MILLER: -- on this case --

10 MR. TINTAYA: Yes, that's --

11 CHAIRPERSON MILLER: -- be entering into
12 it?

13 MR. TINTAYA: Yes, I do.

14 CHAIRPERSON MILLER: Okay.

15 MR. TINTAYA: Thank you.

16 CHAIRPERSON MILLER: And appeal.

17 MR. TINTAYA: Okay, appeal, yes.

18 CHAIRPERSON MILLER: Okay. Good. All
19 right. Any questions by Board Members?

20 Okay. Then I move that we approve this
21 Offer in Compromise of \$2,000 to be paid within 30
22 days. Is there a second?

1 MEMBER SILVERSTEIN: Second.

2 CHAIRPERSON MILLER: Mr. Silverstein
3 seconded the motion.

4 All those in favor say aye.

5 ALL: Aye.

6 CHAIRPERSON MILLER: All those opposed?
7 All those abstaining? The motion passes 6-0-0.

8 Okay. So we have approved the Offer in
9 Compromise for both cases. So I just want to, you
10 know, restate and remind you that we would like to
11 have a letter from The Westin just stating that you
12 are authorized to act as their agent in these
13 proceedings.

14 MR. TINTAYA: I will take care of that
15 today. No problem.

16 CHAIRPERSON MILLER: Okay. Terrific.
17 Thank you very much.

18 MR. TINTAYA: Thank you.

19 (Whereupon, the Show Cause (Status)
20 Hearings in the above-entitled matters were concluded
21 at 9:52 a.m.)
22

<hr/> A <hr/> \$2,000 10:2,13 11:20 12:17 17:1,4,21 a.m 2:2 18:21 above-entitled 18:20 ABRA 6:11 Absolutely 7:21 9:10 abstaining 13:3 18:7 accept 8:20 act 3:10,13 18:12 actions 2:21 adjudication 3:17 advice 3:15 agency 5:14,18 6:3 agenda 2:18 agent 5:5,8,10 6:5,7,16 18:12 ago 9:22 agree 17:3 agreeable 11:19 agreement 9:12 12:7 agreements 3:16 Alberti 1:17 2:10,11 8:12 9:4 12:3 Alcoholic 1:2,13,13 2:6 amend 14:11 amended 15:11 16:5,13 ANC-2A 1:7 4:8 Anyway 10:1 appeal 17:16,17 appropriate 3:19 approve 12:17 17:20 approved 18:8 assist 6:17 Assistant 4:11,16 assured 11:12 attendance 2:14 attorney 3:15 4:11,16 authority 6:3 authorized 5:3 7:19 9:9 18:12 authorizes 12:5 available 2:18 avoid 3:3 aware 2:19 11:4 aye 12:22 13:1 18:4,5 <hr/>	business 2:15 <hr/> C <hr/> calendar 2:17 3:22 4:4 4:5 call 3:5 care 6:18 11:16 12:14 18:14 case 1:8,9 3:5,11,14 4:6 4:6 5:7 8:9 13:16,19 14:4,7 17:1,4,9 cases 4:5 9:17 18:9 Cause 1:6 14:18 18:19 cell 3:2 certain 3:2 Certainly 4:15 CH 1:7 Chair 9:15 14:8 Chairperson 1:14,17 2:3,9 4:2,21 5:2,7,10 5:12,17,21 6:2,5,9,13 6:15,20 7:3,6,9,14,17 7:22 8:4,8,11 9:2,6,11 9:16,18,21 10:3,6,9 10:11,15,21 11:4,7,11 11:15,18 12:1,10,13 12:15,20 13:2,9,11,14 13:21 14:2,6,9,17,21 15:1,3,6,8,15,18,20 16:1,4,7,10,12,16,19 16:21 17:2,6,9,11,14 17:16,18 18:2,6,16 chance 5:13 check 12:4 city 4:3 closed 3:13 CMPS,LLC 1:5 Columbia 1:1 4:12,17 Columbia's 2:6 come 3:5 coming 8:18 communications 8:3 company 6:6,8 11:13 11:21 12:6 complicated 9:20 Compromise 10:12,16 11:19 12:17 14:16 15:17 16:22 17:3,21 18:9 concluded 18:20 concludes 3:18 conduct 2:15 consistent 3:12 constituting 2:16 consult 3:14 Control 1:2,13,13 2:6 Copies 2:17 corporation 8:14 <hr/>	correct 3:8 16:14 Counsel 9:7 16:12 court 2:20 4:13 8:18 current 13:6,10 <hr/> D <hr/> D.C 1:14 date 14:12,22 15:2,3 16:14 David 4:18,22 days 10:4,5,13,14,16,22 11:2,14,21 12:18 17:1 17:4,22 DC 1:6 deal 4:5 December 1:12 2:7 decision 3:16 deliberate 3:16 designating 8:19 desk 2:18 devices 3:1 direct 8:3 Director 4:19,21 5:1,2 discuss 3:15 disruptive 2:21 District 1:1 2:5 4:11,16 6:10 Donald 1:18 2:9 due 15:5 <hr/> E <hr/> either 14:14 electronic 3:1 email 8:2 12:10 ensure 3:8 enter 3:13 9:11 12:7 entered 15:16 entering 17:11 Excellent 16:18 <hr/> F <hr/> Failed 1:8,10 far 2:9 favor 12:22 18:4 fax 12:11 file 1:8,10 6:9,11,17 7:18 8:13,15,22 9:1 12:4,5 filed 5:17 15:13 filing 13:6 Finance 4:19 5:1,2 fine 10:4 11:20 first 4:5,6 6:22 forward 3:6 9:20 front 3:6 fully 7:13,15 <hr/> G <hr/>	General 4:11,16 gentleman 8:13 gentlemen 2:4 Georgetown 4:20 5:1 go 9:20 going 13:17 good 2:3 4:3,9,10,17,18 13:12 15:15,18 16:15 17:18 Government 10:11 Grand 1:6 13:13 Great 16:4 <hr/> H <hr/> H 1:5 hear 9:8 hearing 1:6,13 2:17,22 3:11,14 7:1,11 13:18 17:7 Hearings 18:20 Hector 1:19 2:11 honor 3:20 <hr/> I <hr/> identifies 6:16 incorrect 14:12 information 6:19 8:2 ink 15:12 interruption 3:3 introductory 3:18 issue 7:10 14:7 issues 14:3,5 <hr/> J <hr/> James 1:19 2:13 Jenkins 16:20 <hr/> K <hr/> kind 9:12 know 8:6 9:1,2,5,6 14:11 15:12 18:10 <hr/> L <hr/> ladies 2:3 led 11:1 left 2:11 legal 3:15 9:7 16:12 Lessee 1:5 Let's 4:4 13:4 letter 5:16 8:13 12:5 18:11 license 1:7 4:7 10:17 11:3 licensee 8:20 line 8:3 listed 8:3 little 15:10 located 4:7
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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Louise 1:21 4:10,15

M

M 1:6 4:7
Madam 9:14 14:8
March 14:13 15:5
Marion 3:21
matter 1:4 8:17,19 9:8
matters 8:9,20 18:20
mean 8:16,17 9:1
meant 13:5
meeting 1:3 2:5 3:13
Meetings 3:10,13
Member 1:17,18,18,19
1:19 8:12 9:4 12:19
13:13 18:1
Members 2:14 17:19
memory 3:20
met 1:13
microphone 4:14
Mike 1:18 2:12
Miller 1:14,17 2:3,8 4:2
4:21 5:2,7,10,12,17
5:21 6:2,5,9,13,15,20
7:3,6,9,14,17,22 8:4,8
8:11,12 9:2,6,11,16
9:18,21 10:3,6,9,11
10:15,21 11:4,7,11,15
11:18 12:1,10,13,15
12:20 13:2,9,11,14,21
14:2,6,9,17,21 15:1,3
15:6,8,15,18,20 16:1
16:4,7,10,12,16,19,21
17:2,6,9,11,14,16,18
18:2,6,16
mistake 14:18,19
moment 3:20 4:1
morning 2:3,15 3:21
4:4,9,10,17,18
motion 12:21 13:3 18:3
18:7
move 4:4 12:16 17:20

N

N.W 1:14 4:7
name 2:8 3:9
naming 8:14,18
need 14:11
Nick 1:17 2:10
noises 2:21
note 15:11
notice 3:7 6:22 7:1,10
7:12 13:18 14:3,12,18
15:11 16:5,13
November 16:6
NW 1:6

O

OAG 1:21
objection 15:21
obtain 3:15
Offer 10:12,16 11:19
12:17 14:16 15:17
16:22 17:3,21 18:8
official 15:12
Oh 6:13 16:7,10
OIC 11:10
OICs 11:8
okay 4:2 5:3,12,21 6:15
6:20 7:9,14 8:4,8,11
9:7,16,18,21 10:6,9
10:21 11:6,11,11,15
12:1,2,13,15 13:4,5,9
13:11,14 14:2,9 15:8
15:8 16:1,4,10,19,21
17:2,14,17,18,20 18:8
18:16
open 3:10,11,13
opposed 13:2 18:6
orally 14:11,15
owner 5:6,9
owners 6:19

P

P-R-O-C-E-E-D-I-N-G-S
2:1
paggers 3:2
paid 10:13,15 12:17
17:1,4,21
paper 3:7 10:1
part 10:16,18,19 11:9
passes 13:3 18:7
pay 10:4,5 11:2,13,13
11:20
Phillips 1:21 4:10,11,15
4:16 8:10,22 9:3,14
9:17,19,22 10:4,10,19
10:22 11:6,9,12 14:8
14:10,19,22 15:2,4,7
15:10,16,19 16:5,9,11
16:15,18,20,22
phones 3:2
pick 12:2
piece 3:7 10:1
pleading 5:20
please 2:18 3:2,5
practice 11:8
preliminary 8:9 9:8 14:7
PRESENT 1:16,20
presiding 1:15
problem 8:21 12:12
18:15
proceeding 3:17 12:6
proceedings 2:19 3:4
7:20 18:13
public 3:11,11,14

Q

Quarter 1:9,10
quarterly 1:8,10 6:12
13:7 15:4
question 13:17
questions 12:1,16
17:19
quick 3:20
quorum 2:16

R

read 7:3,6 10:20 13:21
really 9:19
receive 13:18
receptionist 2:18
record 3:9 15:14 16:9
16:14
recorded 2:19 5:13,13
Reeves 1:13
refrain 2:21
regular 9:1
regularly 2:5
remarks 3:18
remind 18:10
renewals 6:18,18
Repeat 4:15
reporter 2:20 4:13
reports 6:12
represent 5:3 6:3 7:19
8:19 12:6
representative 8:14
represented 10:12
11:20
require 8:7
requires 3:10
respect 7:10 13:19 14:3
responsibility 7:16
restate 18:10
Retailer 1:7
right 2:9 10:7,14 12:15
14:6 17:7,19
Rodriguez 1:19 2:11
13:13
room 1:13 2:22 9:7
Ruthanne 1:14,17 2:8

S

saying 9:5
says 7:19
scheduled 2:5
seat 3:6
second 12:18,19 13:16
17:22 18:1
seconded 12:21 18:3
seconds 9:22
Section 3:12
see 15:6
send 9:3

served 16:11
set 16:16
settlement 3:15
Short 1:19 2:13
Show 1:6 14:18 18:19
showing 16:13
sign 16:13
sign-in 3:8
signed 16:5
silence 3:20 4:1
Silverstein 1:18 2:12,12
12:19,20 18:1,2
simple 8:17
six 2:14
solve 8:21
sorry 7:5 13:5
specifically 12:5
spelling 3:9
St 1:5
start 3:21
statement 15:4
statements 1:9,10 13:7
stating 18:11
Status 1:7 18:19
statute 11:5
statutory 11:1
stepped 9:7
Street 1:6,14 4:7
submit 12:8
suggest 8:13
Suite 1:14
sure 7:18 9:9
suspended 10:17 11:3

T

t/a 1:5
table 3:6,7
take 3:6,19 6:18 11:16
12:14 18:14
talking 10:7
Terrific 18:16
Thank 13:14 15:8 16:2
16:19,20 17:15 18:17
18:18
think 3:19
thought 15:13
three 2:15
Tintaya 4:18,19,22,22
5:5,8,11,15,19 6:1,4,7
6:11,14,17 7:2,5,8,12
7:15,21 8:2,6 9:10
10:8,14 11:16,22 12:9
12:12,14 13:8,10,20
14:1,5 15:22 16:2
17:5,8,10,13,15,17
18:14,18
today 2:6 8:15,18,21
12:8 18:15

today's 2:17
turn 4:13
turned 3:3
two 4:5 9:22
type 12:6

U

understand 7:7,12,15
 8:4 11:1 13:22 14:10
 16:2 17:6
understanding 15:7
understood 7:4 14:13

V

verbally 14:11
vote 12:2

W

waive 17:7
waiving 5:19,20
want 7:17 9:8 11:18
 13:4 18:9
wanted 6:2
Washington 1:6,14
way 16:7
welcome 2:4
Westin 1:6 4:6,7,19,22
 5:3 7:19 13:13 18:11
work 4:3

X

Y

Z

Zaniel 14:14 15:16

0

1

14-AUD-00051 1:8 4:6
 10:7
14-AUD-00063 1:9
 13:16
14th 1:14
19th 16:6
1st 1:10

2

2000 1:14
20009 1:14
2013 1:9 15:5
2014 1:10,12 2:7 14:13
 15:5
2350 1:6 4:7

3

3 1:12 2:7

30 10:5,13,14,16,22
 11:2,13,21 12:18 17:1
 17:4,21
31 14:13 15:5

4

400S 1:14
405(b) 3:12
4th 1:9

5

6

6-0-0 13:3 18:7

7

75025 1:7 4:8

8

9

9:40 2:2
9:52 18:21